

Adopt Section 87764 to read:

87764 Suspension of New Admissions

- (a) The Department may order a suspension of new resident admissions for a facility, as specified in Health and Safety Code section 1569.545, in either of the following circumstances:
- (1) When a facility is cited for a deficiency that presents a direct and immediate risk to the health, safety, or personal rights of the resident and the licensee fails to correct the deficiency immediately.
 - (2) When a facility has failed to pay a civil penalty (or civil penalties) assessed by the Department after the facility has exhausted the administrative review process as specified in Section 87763.
- (b) The Department shall serve written notice to the licensee of the order to suspend new resident admissions according to the following:
- (1) Personal delivery to the licensee at the facility site.
 - (2) If the licensee is not at the facility site, leave the notice with a person designated in the facility file to accept licensing reports. Under such circumstances, a copy of the notice shall also be mailed to the licensee.
 - (3) If the licensee or designated person refuses to accept the notice, a notation of the refusal shall be written on the notice and left at the facility. Under such circumstances, a copy of the notice, which includes a notation of the refusal, shall also be mailed to the licensee.
- (c) The notice of the order to suspend new resident admissions shall include the following:
- (1) Citation of statutes and regulations alleged to be violated.
 - (2) The date the order is effective.
 - (3) Terms of the order including plans of correction for any deficiency cited.
 - (4) (A) In the case of a suspension of new admissions under subsection (a)(1), A a factual description of the nature of the deficiency fully stating the manner in which the deficiency presents a direct and immediate risk to the health, safety, or personal rights of a resident.

(B) In the case of a suspension of new admissions under subsection (a)(2), a factual description of the failure to pay the assessed fine and exhaustion of appeal rights.

(5) Signature of the Program Administrator.

(6) Appeal process as specified in Section 87765.

(d) Upon the Department serving the notice described in subdivision (b), the licensed facility shall post a copy of the notice to suspend new admissions in a conspicuous location in the facility.

(e) The order of the Department imposing the suspension of new admissions is effective immediately upon notice. ~~The order and shall continue pending any appeal review~~ not be stayed and remains in effect throughout the appeals process. The facility shall not admit new residents during the effective dates of the suspension.

(a) For purposes of this section, any admission agreement signed prior to the effective date of the notice of the order to suspend new admissions is not considered a new admission.

(f) The suspension of new resident admissions for a facility shall remain in effect until the Department determines:

(1) In the case of a suspension of new admissions under subsection (a)(1), the facility has demonstrated to the Department the correction of all deficiencies as required in the notice. If the facility does not demonstrate to the Department the correction of all deficiencies, as required in the notice, the Department shall conduct a follow up visit to determine compliance within ten (10) ~~working~~ business days following the latest date of correction specified in the notice.

(2) In the case of a suspension of new admissions under subsection (a)(2), the facility has paid applicable civil penalty (or penalties) assessed by the Department. In the case where formal payment arrangements have been made with the Department, the suspension order may be lifted during the period of payment compliance ~~or~~ but otherwise reinstated for failure to comply with payment arrangements.

(g) Once the Department has determined the violation(s) has been corrected or fines paid, as specified in subsection (f) above, the Department shall notify the licensee ~~in writing immediately, but no later than within~~ two (2) business days of the order to remove the suspension of new resident admissions ~~by personal delivery to the licensee at the facility site.~~

~~(1) If the licensee is not at the facility site, the notice shall be left with a person designated in the facility file to accept licensing reports. Under such circumstances, a copy of the notice shall also be mailed to the licensee.~~

(h) The Department may impose a Temporary Suspension Order, pursuant to Health and Safety Code section 1569.50 if the licensee violates the suspension of admission order by admitting any new resident during the term of the order of suspension.

Authority Cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.50 and 1569.545, Health and Safety Code.

Adopt Section 87765 to read:

87765 Appeal of Suspension of New Admissions

- (a) ~~On a form provided by the Department, a~~ A licensee or his/her representative may appeal the decision of the Department to suspend new admissions by requesting in writing a review of the suspension of new admissions order within ~~ten (10) working business days~~ of receipt of the order. This review shall be conducted by the Deputy Director of the Community Care Licensing Division or his or her designee.
- (b) The licensee shall include with the request for appeal the basis for which the appeal is requested and all available supporting documentation ~~with the request for appeal~~.
- (c) Once the Department issues a suspension of new resident admissions order for a facility, the order to suspend admissions shall not be stayed and remains in effect throughout the appeal process.
- (d) The Deputy Director ~~or his or her designee~~ shall conduct the review and render a final decision ~~in a timely manner within five (5) three (3) business days~~ from receipt of the written appeal. If the Deputy Director ~~or his or her designee~~ determines that the suspension order was not issued in accordance with applicable statutes and regulations of the Department, or that other circumstances existed, he or she shall have the authority to amend or dismiss the suspension order.
- (e) The Department ~~will~~ shall notify the licensee ~~immediately, but no later than two (2) business days~~, of the final determination of the appeal ~~by personal delivery to the licensee at the facility site~~.
- ~~(1) If the licensee is not at the facility site, the notice shall be left with a person designated in the facility file to accept licensing reports. Under such circumstances, a copy of the notice shall also be mailed to the licensee.~~

Authority Cited: Section 1569.30, Health and Safety Code.

Reference: Section 1569.545, Health and Safety Code.